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**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/170450

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 30, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on December 23, 2015, at Kenosha, Wisconsin.

The issue for determination is whether the Department correctly denied a prior authorization request for a non-preferred prescription drug, Harvoni.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED], R.PH

Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner is a resident of Kenosha County. He is certified for MA or BadgerCare Plus.
2. On October 7, 2015, a prior authorization request was submitted on the petitioner's behalf for Harvoni, a non-preferred prescription drug. The cost is listed as \$60,000 for a twelve week

supply of the medication. The Department issued written notice of denial of that request on October 20, 2015.

3. On December 2, 2015 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.
4. The Department's basis for denial is that the petitioner has taken a prior course of therapy with the drug Sovaldi, and that his condition does not meet the severity standards that the Department has set as a condition for approval.
5. The petitioner, age 57, has diagnoses of chronic hepatitis C. As of the date of the prior authorization request, the petitioner's Child-Turcotte-Pugh Classification for Severity of Cirrhosis was at 9 points, and classified as Class B. The petitioner had encephalopathy – mild to moderate, ascites- responsive to diuretic, Bilirubin of 2.4, Albumin of 3.4, and an INR of 1.2.
6. The petitioner previously received a six month treatment of Sovaldi.

### **DISCUSSION**

The Wisconsin MA program pays for some prescription drugs. Wis. Admin. Code § DHS 107.10. Non-preferred prescription drugs must receive prior authorization as a condition of payment. *Id.*, 107.10(2)(d). In evaluating a prior authorization request, the program considers the authorization standards at § DHS 107.02(3)(e). Those standards include the requirements that the requested service be a medical necessity, appropriate, and cost effective, and that the existence of less expensive alternative services be considered. *Id.* The petitioner bears the burden of proving that these standards are met.

As an aid to assure consistent authorization request evaluation/approval for non-preferred, high-priced hepatitis C drugs, the Division's consultants prepared policy standards related to severity, which became effective in July 2015. In order for Harvoni to be approved, the patient's hepatitis C must have advanced to any of the following stages:

- Compensated cirrhosis (i.e., CTP class A)
- Evidence of bridging fibrosis (e.g. Metavir score of F3 or greater)
- Serious extra-hepatic manifestations of hepatitis C virus (HCV)

*ForwardHealth Update*, 2015-27 (June 2015). The patient must also be clinically ineligible for treatment with Viekira. *Id.* In addition, a prior authorization request will be denied if a person meets the above requirements, but has been taken a prior course of therapy with Harvoni or Sovaldi. *Id.*

There is no dispute that the petitioner has taken a prior course of therapy with Sovaldi. In his request for fair hearing, the petitioner writes:

I had received a 6 month treatment of Sovadi/Ribavirin, where liver panels showed great improvement and lowered my MELD score. Due to this, I was taken off the liver transplant list at Froedtert Medical College of WI as I was no longer a candidate for transplant surgery.

However, even if the petitioner had not taken a prior course of therapy with Sovaldi, his condition has not deteriorated to the levels identified in the policy. As of the date of the prior authorization request, the petitioner's Child-Turcotte-Pugh Classification for Severity of Cirrhosis was at 9 points, and classified as Class B. I note that if the petitioner had a score of 10, then he would be a CTP class A, and potentially eligible to receive Harvoni except that he has already taken Sovaldi. Thus, the petitioner has not established that he meets the program's authorization requirements for Harvoni, and the Department's denial was correct.

### CONCLUSIONS OF LAW

The Department correctly denied a prior authorization request for a non-preferred prescription drug, Harvoni.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

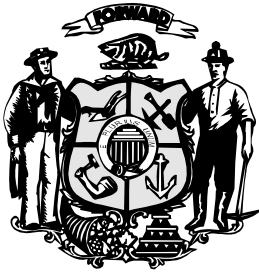
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 8th day of January, 2016

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\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 8, 2016.

Division of Health Care Access and Accountability